

**PT 02-8**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**ALL SAINTS ANTIOCHIAN  
ORTHODOX CHURCH,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0074  
(98-16-1275)  
P.I.N: 13-22-417-027**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Mr. Terrence Kennedy, attorney at law, on behalf of the All Saints Antiochian Orthodox Church (hereinafter the “applicant”).

**SYNOPSIS:** This proceeding raises the issue of whether a leasehold interest in real estate identified by Cook County Parcel Index Number 13-22-417-027<sup>1</sup> was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* (hereinafter the “Code”), during any part of the 1998 assessment year. The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”) on July 1, 1999. The Board reviewed this complaint and recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that the entire subject property be exempt as of March 18, 1998. The

Department partially rejected this recommendation by issuing a determination, dated August 31, 2000, which found as follows:

- The pastor's study on the first floor, the basement & a proportionate amount of the underlying land is exempt as of the date applicant obtained ownership of the subject property, February 28, 1998; but,
- The remainder of the first floor, the entire second floor and a proportionate amount of the land thereunder is taxable to applicant as of February 28, 1998 due to lack of exempt use.

Dept. Ex. No. 1-C.

Applicant filed a timely appeal to this partial denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at hearing, I recommend that the Department's determination in this matter be affirmed as issued.

**FINDINGS OF FACT:**

A. Preliminary Considerations

1. The Department's jurisdiction over this matters and its position therein are established by the admission into evidence of Dept. Nos. 1-A, 1-B and 1-C.
2. The Department's position in this matter is, for present purposes, that the portions in dispute, consisting of: (a) all portions of the first floor except the pastor's study; and, (b) the entire second floor; and, (c) a proportionate amount of the land under these areas, are not in exempt use.
3. The subject property is located at 4125 W. Newport, Chicago, IL and improved with an 1.5 story building. Dept. Ex. No. 1-B.

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1. The property identified by Cook County Parcel Index Number 13-22-417-027 shall hereinafter be referred to as the "subject property[;]" the leased portions thereof which are currently in dispute shall hereinafter be referred to as the "portions in dispute."

4. Applicant obtained ownership of the subject property by means of a warranty deed dated February 28, 1998. Applicant Ex. No. 3.
  5. Applicant demised the portions in dispute to the Fellowship of St. James (hereinafter the “Fellowship”) pursuant to the terms of a commercial lease dated June 1, 1998. Applicant Ex. No. 4
- B. Applicant’s Organizational Structure
6. Applicant is an Antiochian Orthodox Christian Archdiocese Church, organized under the Illinois Not For Profit Corporation Act, that serves communities in the northwest Chicago area. Applicant Ex. Nos. 1, 2.
  7. Applicant’s organizational mission is, per its Constitution, to propagate the teachings of the Holy Orthodox Catholic and Apostolic Church through the observance of the faith thereof as administered by the authority of the Antiochian Orthodox Christian Archdiocese of North America. Applicant Ex. No. 2.
- C. The Fellowship’s Organizational Structure
8. The Fellowship, an Illinois not for profit corporation, was originally incorporated as the B’rith Christian Union. Its original board of directors consisted entirely of Christian ministers; its founding executive director was applicant’s pastor. Applicant Ex. No. 5; Tr. p. 10.
  9. The Fellowship’s organizational purpose, as set forth in its initial Articles of Incorporation, is to “provide religious leadership in the Christian community which is to be dedicated to the propagation of the New Testament faith and

practice through conducting regularly constituted mission services and training classes.” Applicant Ex. No. 5.

10. The Fellowship changed its corporate name from the “B’rith Christian Union” to the “Fellowship of St. James” by means of an amendment to its Articles of Incorporation dated November 15, 1989. Applicant Ex. No. 6.

11. The Fellowship is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code pursuant to the terms of a determination issued by the Internal Revenue Service on August 28, 1973. Applicant Ex. No. 8.

#### D. The Fellowship’s Financial Structure

12. The Fellowship operates on a fiscal year that runs from July 1 through June 30. Applicant Ex. Nos. 17, 18.

13. Unaudited profit and loss statements reveal that the Fellowship received income from the following sources during its 1997 and 1998 fiscal:

<b>SOURCE</b>	<b>TOTAL<sup>2</sup></b>	<b>% of TOTAL<sup>3</sup></b>
Contributions	\$ 597,707.41	77%
Publications		
Back Issue Sales	\$ 1,042.90	<1%
<i>Touchstone</i> Magazine – Advertisements	\$ 650.00	<1%
<i>Touchstone</i> Magazine – Other	\$ 140,169.92	18%
Devotional Guide	\$ 10,861.32	1%

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2. The figures shown on the above charts are derived from the profit and loss statements admitted as Applicant Ex. Nos. 17 and 18. These statements present applicant’s financial structure on the basis of fiscal, rather than calendar, years. The Property Tax Code, however, defines the term “year” as meaning “calendar year” (35 ILCS 200/1-155). Because applicant’s fiscal year (July 1 through June 30) does not conform to a “calendar year” (January 1 through December 31), it is necessary to present applicant’s fiscal structure on the basis of combined figures for its 1997 and 1998 fiscal years. Thus, for example, \$597,707.41 in total revenues from contributions is equal to the sum of \$226,540.88 + 371,166.53 which are the amounts of revenue applicant received from contributions during its 1997 and 1998 fiscal years.

3. All percentages shown herein are approximations derived by dividing the amounts shown in the relevant category by the total revenues shown on the last line of the third column. Thus,  $\$597,707.41 / \$780,377.08 = 0.7659$  (rounded four places past the decimal) or 77%.

Calendar Sales	\$ 16,839.90	2%
Cassette Tapes	\$ 78.09	<1%
Total Publications	\$ 169,642.13	22%
Interest Earned	\$ 7,219.87	<1%
Miscellaneous	\$ 5,807.67	<1%
<b>TOTAL INCOME</b>	<b>\$ 780,377.08</b>	

Applicant Ex. Nos. 17, 18.

14. The Fellowship's expenses for the same fiscal years were, per the profit and loss statements, as follows:

<b>EXPENSE</b>	<b>TOTAL</b>	<b>% of TOTAL</b>
Designated Disbursements	\$ 29,626.69	4%
Recoverable Expenses	\$ 4,801.89	1%
<i>Touchstone</i> Magazine	\$ 220,882.99	30%
Devotional Guide	\$ 20,805.67	3%
Total Calendar	\$ 10,388.61	1%
Facility	\$ 25,782.90	4%
Business Office	\$ 36,806.54	5%
Payroll	\$ 334,330.64	45%
Meetings	\$ 10,048.53	1%
Annual FSJ Conference	\$ 6,727.94	1%
Networking	\$ 12,812.24	2%
Fundraising	\$ 8,801.13	1%
Periodical Subscriptions	\$ 2,982.05	<1%
Depreciation	\$ 10,900.12	1%
<b>TOTAL EXPENSES</b>	<b>\$ 735,697.94</b>	
<b>RECONCILIATION:</b>		
Total Income	\$ 780,377.08	
Total Expenses	\$ 735,697.94	
Net Income	\$ 44,679.14	

*Id.*

#### D. Ownership and Use Issues

15. Applicant obtained ownership of the subject property by means of a warranty deed dated February 28, 1998. Applicant Ex. No. 3.

16. The subject property is improved with a 1.5 story building that is divided into the following areas: (a) a pastor's study, which is located on part of the first floor; (b) an office area which occupies the remainder of the first floor; (c) a larger work area (hereinafter the "work area"), which takes up the entire second or main floor; and, (d) a basement which applicant uses to conduct its Sunday school. Dept. Ex. Nos. 1-B, 1-C; Applicant Ex. No. 21; Tr. pp. 28-29.
17. The pastor's study,<sup>4</sup> the basement and a proportionate amount of the ground thereunder are not at issue herein because they are already exempt under terms of the Department's initial determination herein. Dept. Ex. No. 1-C.
18. The office area located on the first floor, the work area and a proportionate amount of the ground thereunder are currently at issue and constitute the portions in dispute.
19. Applicant demised the portions in dispute to the Fellowship pursuant to the terms of a commercial lease dated June 1, 1998. Applicant Ex. No. 4.
20. The lease provides, *inter alia*, that: (a) the demised premises shall consist of the main or second floor work area and the first floor office space; (b) the term of the lease is to commence June 1, 1998 and terminate May 31, 2000; (c) the Fellowship shall pay applicant monthly rent of \$850.00 throughout the terms of the lease; and, (d) the Fellowship is to use the demised premises for office/work space, meetings and other purposes consistent with its organizational objectives. Applicant Ex. No. 4.

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4. This study is occupied by applicant's pastor in furtherance of his ministerial duties at applicant's church. Dept. Ex. No. 2.

21. The Fellowship used the work and office areas as its base of operations for publication of *Touchstone* magazine and its devotional guide. Tr. pp. 18-19,

28.

22. *Touchstone's* publication description indicates that:

*Touchstone* is a Christian journal, conservative in doctrine and eclectic in content, with editors from the three great divisions of Christendom – Protestant, Roman Catholic and Orthodox. The mission of *Touchstone* magazine, and its publisher, the Fellowship of St. James, is to provide a place where Christians of various backgrounds can speak with one another on the basis of shared belief in the fundamental doctrines of faith as revealed in the Holy Scripture and summarized in the ancient creeds of the Church.

Applicant Ex. No. 13; Tr. p. 36.

23. Most of the articles and editorials that appear in *Touchstone* focus on issues such as the centrality of the traditional family structure, opposition to begetting children out of wedlock, the essential nature of the ordained ministry in the Christian church being limited to the male, the historicity of what is recorded in the Holy Scriptures and firm opposition to abortion on moral grounds. Tr. pp. 43-44, 46.

24. The opinions expressed in *Touchstone* are those of the individual authors and do not necessarily reflect the viewpoints of the magazine's editors or publishers. Tr. p. 39.

25. *Touchstone* was published on a bimonthly basis and had a circulation of approximately 3,000 in 1998.<sup>5</sup> Applicant Ex. No. 13; Tr. p. 31.

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5. The uses described in this and all subsequent Findings of Fact shall be understood to be 1998 uses unless context clearly specifies otherwise.

26. The Fellowship distributes *Touchstone* mostly through subscription sales, although it also makes some incidental distributions at Christian conferences and other events. Tr. p. 18.

27. The Fellowship's 1998 subscription rates for *Touchstone* were as follows:

DISTRIBUTION POINT	TERM	PRICE	# OF ISSUES
United States	1 year	\$19.95	6
United States	2 years	\$34.95	12
Canada & Mexico (air mail)	1 year	\$23.95 (U.S.)	6
Canada & Mexico (air mail)	2 years	\$42.95 (U.S.)	12
Overseas (air)	1 year	\$28.95 (U.S.)	6
Overseas (surface)	1 year	\$23.95 (U.S.)	6
Overseas (air)	2 years	\$52.95 (U.S.)	12
Overseas (surface)	2 year	\$42.95 (U.S.)	12

Applicant Ex. No. 13.

28. The Fellowship also offers bulk rates. It also maintains a mailing list for *Touchstone*, which it rents to unspecified entities. Tr. p. 50.

29. The publication description for *Touchstone* does not specifically indicate whether the Fellowship waives or reduces subscription rates for those in financial need. Applicant Ex. No. 13.

30. The Fellowship nevertheless provides complimentary copies of *Touchstone* to:  
(a) the incarcerated; (b) others who make appropriate requests; and, (c) every family who belongs to applicant's parish. Tr. pp. 21, 31.

31. An advertisement in *Touchstone* states that:

*Help Us Grow!*  
Send us names and addresses of your friends  
Or family who would be interested in  
*Touchstone*, and we'll send them  
A complimentary copy

*Id.*



32. *Touchstone* also contains advertisements encouraging readers to send gift subscriptions to their friends as well as advertisements for sales of its back issues and various other Christian publications, including the Fellowship's devotional guide. *Id.*
33. The Fellowship publishes its devotional guide, which contains daily Bible readings, prayers and other information about Christian devotional practices, four times per year. Its subscription rate for this publication is \$14.00 per year, which includes all four issues. *Id.*; Tr. p. 50.
34. The Fellowship's subscription base for its devotional guide is not as great as that for *Touchstone*. Tr. pp. 18-19.
35. An advertisement for the devotional guide which appears in *Touchstone* states that the Fellowship will send a sample copy of, or provide further information about, the devotional guide to anyone who makes a written request therefor. *Id.*

### **CONCLUSIONS OF LAW:**

An examination of the record establishes that this applicant has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the portions in dispute from 1998 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that said property does not qualify for exemption under 35 ILCS 200/15-40 should be affirmed. In support thereof, I make the following conclusions:

A. Introductory Considerations

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code 35 **ILCS** 200/1-1 *et seq.*, wherein “all property used exclusively for religious purposes, or used exclusively for school and religious purposes ... not leased or otherwise used with a view to a profit” is exempted from real estate taxation. 35 **ILCS** 200/15-40.

The word “exclusively” when used in Section 15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

This record raises two distinct use issues: (1) whether applicant’s leasing of the portions in dispute violates the prohibition against use for profit contained in Section 15-40; and, (2) assuming that this leasing arrangement does not violate that prohibition, whether the lessee-Fellowship’s uses of the portions in dispute qualify as “exclusively religious” within the meaning of Section 15-40.

#### B. Leasing Issue

In Children's Development Center v. Olson, 52 Ill. 2d 332 (1972) (hereinafter "Olson"), the Illinois Supreme Court held that a leasehold interest, such as the one held by the Fellowship, can be separately exempted from the underlying fee if: (1) the lessor qualifies as the type of entity whose property is exempt from taxation based on use alone or ownership and use;<sup>6</sup> and, (2) the lessee also qualifies as that type of entity;<sup>7</sup> and, (3) the lessee uses the demised premises for purposes that would qualify as exempt if the lessee owed the allegedly exempt leasehold, provided that neither the lessor nor the lessee are profiting from the enterprise. Thus:

It is unnecessary through accounting procedures to ascertain whether [the lessor] actually made a profit from the leasing. That is not the test. This court has often held that it is the primary use of the property and not the ownership that determines its taxable status. [citations omitted].

We likewise consider that it is the primary use to which the property is devoted *after the leasing* which determines whether the tax-exempt status continues. If the primary use is for the production of income, that is, "with a view to profit," the tax exempt status is destroyed. Conversely, if the primary use is not for the production of income but to serve a tax-exempt purpose the tax exempt status of the property continues though the use may involve the incidental production of income.

Olson, *supra* at 336. [emphasis added].

Applicant's organizational documents (Applicant Ex. Nos. 1, 2), and those of the Fellowship (Applicant Ex. No. 5), indicate that both entities qualify as "religious" type

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6. The lessor in Olson was a religious entity, the School Sisters of St. Francis, an order of Catholic nuns that demised the subject leasehold to the appellant Children's Development Center.

7. The lessee in Olson, Children's Development Center, was conceded to be a duly qualified charitable institution, whose exemption required ownership and use, for purposes of the appeal therein. *See*, 35 ILCS 200/15-65(a). *Compare*, Village of Oak Park et al v. Rosewell, 155 Ill. App.3d 497 (1<sup>st</sup> Dist. 1983) (leasehold held by village, whose exemption required ownership alone, held taxable on grounds that village's leasehold interest was legally insufficient to satisfy statutory ownership requirement).

organizations. As such, real estate owned by these entities can be exempted from real estate taxation, but only if it is used in the manner prescribed by Section 15-40. People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Section 15-40 expressly bars exemption where the property is leased or otherwise used with a view to profit. 35 **ILCS** 200/15-40. The \$850.00 per month or \$10,200.00 per year that this applicant receives in rental income might be viewed as indicative of a lease for profit because the amount thereof is not *de minimus* (i.e. \$1.00 or less), and therefore, far exceeds anything that can reasonably be considered nominal or token rent. However, the mere fact that applicant's financial return from this lease can be quantified in accounting terms is not decisive for present purposes. Olson, *supra* at 336. Rather, the determinative factor is whether the leasehold which generates that return is primarily used to: (a) produce income for the lessor-owner; or, (b) further one or more specifically identifiable tax exempt purposes. *Id.*

The leased portions in dispute herein are primarily used for purposes associated with publication and distribution of the Fellowship's periodical, *Touchstone*. Such purposes fail to qualify as "religious" in the conventional sense because they lack the requisite association with places traditionally used for public worship, Sunday school or other devotional instruction. People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, *supra*. They do nonetheless raise more contemporary questions as to whether publishing and distributing a Christian-oriented periodical constitutes a "religious" purpose within the meaning of Section 15-40.

### C. Religious Use Issue

Courts have sought to resolve the difficult and often complex issues associated with religious publishing enterprises by inquiring, in general terms, whether the nature of the entity's business is indicative of: (a) an inherently "religious" undertaking with incidental commercial nuances (Congregational Sunday School and Publishing Society v. Board of Review, 290 Ill. 108 (1919); Inter-Varsity Christian Fellowship of the United States of America v. Hoffman, 62 Ill. App.3d 798 (2<sup>nd</sup> Dist 1978); Evangelical Teacher Training Association v. Novak, 118 Ill. App.3d 21 (2<sup>nd</sup> Dist. 1983)); or, (b) a commercial enterprise with secondary "religious" overtones (Scripture Press Foundation v. Annunzio, 414 Ill. 339 (1953)).

Factors to be considered in making this multi-faceted analysis<sup>8</sup> include, *inter alia*, whether: (a) those who manage, organize and/or bear direct responsibility for conducting

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8. Some of these factors suggest application of the exemption pertaining to "institutions of public charity," which appears in Section 15-65(a) of the Property Tax Code, 35 ILCS 200/15-65(a). Section 15-65(a) provides, in substance, that all property owned by "institutions of public charity," is exempt from real estate taxation provided that it is "actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit[.]" 35 ILCS 200/15-65(a).

This exemption is technically distinct from the one that appears in Section 15-40 because it requires *both* exempt ownership and exempt use (Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968)), rather than exempt use alone. (People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, *supra*). However, the court in Evangelical Teacher Training Association v. Novak, *supra*, specifically recognized that these technical distinctions can often become blurred in the context of religious publishing by stating that:

While the analysis required for charitable purposes may not be identical in all situations with that applicable to the religious exemption, it is a fair inference from the authorities that many of the same factors may be common to both claims for exemption in determining whether a religious or secular purpose is being performed. Thus, in [Congregational Sunday School], the court noted, "they are so closely associated that we will discuss them together."

the business are members of a duly constituted religious order. Evangelical Teacher Training Association, *supra*; (b) the means employed (i.e. publishing, distribution, etc.) directly further one or more substantial “religious” purposes for which the entity is organized. *id.*; Congregational Sunday School, *supra*; (c) the entity makes a regular practice of distributing its materials free of charge or at reduced cost to those in need. Evangelical Teacher Training Association, *supra*; (d) the prices the entity charges for distribution of its materials are indicative of a profit motive in that they are less than, equal to or greater than whatever cover production costs it incurs. Congregational Sunday School, *supra*; (e) the entity’s pricing scheme enables it to provide complimentary copies of its materials to those in need irrespective of their ability to pay. *id.*; (f) the entity applies any profit it receives from “business” operations toward free distributions or other endeavors which substantially further its “religious” purpose. *id.*; and, (g) granting the requested exemption would violate public policy by creating economic inequalities between media outlets that enjoy the competitive advantage of exempt status and those that do not. Evangelical Covenant Church of America v. City of Nome, 394 P. 2d 882 (1964).

Here, the basic nature of the Fellowship’s business is to publish and distribute *Touchstone*, a periodical that promulgates conservative Christian editorials. The editorial

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*Congregational Sunday School & Publishing Society v. Board of Review*, (1919) 290 Ill. 108, 112. See also, *Scripture Press Foundation v. Annunzio*, (1953) 414 Ill. 339, 357-58.

Evangelical Teacher Training Association v. Novak, *supra* at 26. (Citations as they appear in the original).

content of these publications is protected by the first amendment of the United States Constitution. New York Times Co. v. Sullivan, 376 U.S. 254 (1964); Miami Herald Publishing Co. v. Tornillo 418 U.S. 241 (1974); Lorillard Tobacco Co. v. Reilly, 533 U.S. 525 (2001). Therefore, although the State is constitutionally prohibited from inquiring into the “truth or verity” of that editorial content, (United States v. Ballard, 322 U.S. 78, 86 (1944)), it is not barred from inquiring whether real estate utilized to produce such editorial publications is “used exclusively for religious purposes” within the meaning of 35 ILCS 200/15-40 (Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763, 773-775 (4<sup>th</sup> Dist., 1987)).

The factors set forth above ensure that the analytical criteria for this inquiry are objective and content-neutral. Thus, application thereof to the present facts reveals that, on balance, *Touchstone’s* operations are more consistent with those of a commercial enterprise than a religious undertaking. This is not to minimize the facts that: (a) *Touchstone’s* publisher, the Fellowship, was organized entirely by Christian ministers (Applicant Ex. No. 5; Tr. p. 10); (b) the Fellowship’s founding executive director served as applicant’s pastor (*id.*); and, (c) the Fellowship finances publication of *Touchstone* mainly through contributions. (Applicant Ex. Nos. 17, 18; Tr. pp. 23-24). Nor is it to discount the significance of the Christian-oriented content of the material in *Touchstone*. Rather, it indicates that other aspects of *Touchstone’s* operations are strongly demonstrative of a commercial enterprise.

For instance, the Fellowship’s primary distributional mechanisms for *Touchstone*, paid subscription bases, are the same as commonly utilized by commercial publishers.

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In the interest of avoiding the confusion inherent in analyzing two technically distinct exemptions “together,” I set forth the criteria courts have identified as being relevant to this hybrid analysis without

So too are the advertisements and single issue giveaways whereby the Fellowship actively seeks to increase those subscription bases. Furthermore, the Fellowship's practice of renting its mailing list for *Touchstone* is distinctively commercial, as is the complete absence of any evidence proving that the Fellowship waives or reduces subscription rates for those who cannot pay these rates.

Absent such evidence, applicant and the Fellowship have failed to prove that the pricing scheme for *Touchstone* does in fact facilitate appropriate gratuitous distributions of the magazine. This failure of proof must be resolved in favor of taxation, as must all residual doubts as to whether *Touchstone* qualifies as a "religious" undertaking or a commercial enterprise. People Ex Rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987); Metropolitan Sanitary District of Greater Chicago v. Rosewell, 133 Ill. App.3d 153 (1st Dist. 1985). However, even if this were not the case, *Touchstone's* financial structure is strongly suggestive of a profit motive.

According to the unaudited profit and loss statements submitted as Applicant Ex. Nos. 17 and 18, the Fellowship's payroll for *Touchstone* amounts to \$334,330.64, or 45% of its total expenses therefor. This exceeds, by a full 15%, the Fellowship's expenses for *Touchstone* itself, which the profit and loss statements reveal to be \$220,882.99 or 30% of total expenses. Because this unexplained discrepancy is once again consistent with the operations of a profit-oriented commercial publication, I can only conclude that, based on all the factors identified above, *Touchstone* is primarily a commercial enterprise. Therefore, the Fellowship should not be allowed to enjoy the competitive advantage of a

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making further reference to their technical source.



property tax exemption for the portions in dispute, wherein it publishes *Touchstone*.  
*Accord, Evangelical Covenant Church of America, supra.*

Based on the foregoing, I conclude that the portions in dispute are not used “exclusively for religious purposes,” within the meaning of 35 **ILCS** 200/15-40. Therefore, the Department’s initial determination in this matter should be affirmed as issued.

WHEREFORE, for the reasons set forth above, it is my recommendation that, with respect to real estate identified by Cook County Parcel Index Number 13-22-417-027:

- A. the pastor’s study on the first floor, the basement and a proportionate amount of the underlying land situated thereon be exempt from real estate taxation for that 84% of the 1997 assessment year commencing February 28, 1997 and ending December 31, 1997 under 35 **ILCS** 200/9-185 and 35 **ILCS** 200/15-40; but,
- B. the remainder of the first floor, the entire second floor and a proportionate amount of the underlying ground situated thereon be taxable to the applicant-owner for that 84% of the 1997 assessment year commencing February 28, 1997 and ending December 31, 1997.

January 7, 2002  
Date

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Alan I. Marcus  
Administrative Law Judge